

## IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 2nd day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 28420 OF 1996BETWEEN :

Sri B.V. Krishnappa  
s/o late Venkatappa  
Driver, KSRTC,  
B.T.S. Division,  
residing at No. 296,  
Rupendraagrahar Colony,  
Madiwala Post,  
Bangalore - 560 068

.. PETITIONER

(Sri V.S. Naik, Advocate for  
petitioner)

A N D :

1. The Management of Karnataka  
State Road Transport Corporation  
BTS Division,  
Shanthinagar,  
Bangalore - 560 027,  
represented by the  
Divisional Controller

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2. The Presiding Officer,  
2nd Additional Labour Court,  
Bangalore

.. RESPONDENTS

(Sri B.V. Sabarad for R - 1)

Writ Petition filed under Articles 226 & 227 of the Constitution of India, praying to; ISSUE a Writ of Certiorari or any other appropriate writ, order or direction, quashing that portion of the Award passed by the Labour Court in Ref.No. 494/88, the certified copy of which is produced and marked as Annexure - E by which the Labour Court has denied full back wages to the petitioner and has further imposed the penalty of loss of one increment from the date of dismissal till the date of petition, since the denial of these benefits is totally arbitrary, illegal and otherwise unjustified; ISSUE a writ of Mandamus or any other appropriate writ, order or direction, directing the 1st Respondent Corporation to pay the petitioner full backwages and also restore the increment to the petitioner with all the consequential benefits.

This Writ Petition coming on for Preliminary hearing in "B" Group, this day, the Court made the following :

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O R D E R

The petitioner challenges Annexure-E award passed by the Labour Court. The petitioner was working as a Driver under the 1st respondent-Corporation. While he was driving the KSRTC vehicle bearing No.MEF 121 on 13-3-1982, it involved in an accident whereat a cyclist suffered a fatal injury. The petitioner was suspended and a domestic enquiry was conducted. After the domestic enquiry, he was dismissed **from** service on 1-2-1985. The petitioner filed a statutory revision before the 1st respondent-Corporation. When it was dismissed, he invoked the provisions of Sec.10(4-A) of the I.D.Act and challenged the order of dismissal before the Labour Court. Before the Labour Court he conceded the fairness of the domestic enquiry. Then the only question was whether the findings of the enquiry officer are perverse and whether the punishment is disproportionate to the charges. The Labour Court held that the findings are perverse. The further question then was whether the charges were proved by the Management. The Labour Court found that the charges have not been proved by the Management.

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It, therefore, set aside the order of dismissal and called upon the Management to reinstate the worker with 30% backwages only from the date of petition till reinstatement and also withholding of one increment from the date of dismissal till the date of petition. It is this award that is challenged by the worker in these proceedings.

2. I have heard Mr.V.S.Naik, learned counsel for the petitioner-worker, as also Mr.Basavaraj V.Sabarad, learned counsel appearing for respondent-1 Corporation. The question as to whether the dismissal is justified or not has been considered by the Labour Court and it held that the dismissal is not justified. Therefore, that part of the award of the Labour Court, since it is not challenged by the Corporation, need not be gone into at this stage. The only challenge is that the petitioner-worker has been awarded only 30% backwages. I do not think that it is an illegal exercise of discretion by the Labour Court. It is not that in every case of reinstatement the full amount of backwages should be awarded. The Labour Court has examined the question as to whether the worker deserved full backwages or to what extent the



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backwages be awarded. In this case the Labour Court held that in the light of the charges framed against the worker, which though not proved, the proper discretion would be to award only 30% backwages and to withhold one increment. This discretion having been exercised by the Labour Court is not a matter for this Court to re-appreciate and come to a different conclusion. As long as that finding is not perverse, I do not find any grounds to interfere with that part of the award of the Labour Court and enhance the backwages. I, therefore, dismiss the Writ Petition.



Sd/-  
JUDGE

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